

E-filed 11/16/06

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MEMRY CORPORATION,

Plaintiff,

v.

KENTUCKY OIL TECHNOLOGY, N.V.,
PETER BESSELINK, MEMORY METALS
HOLLAND, B.V.,

Defendants.

Case No. C04-03843 RMW (HRL)

**ORDER DENYING AS MOOT
KENTUCKY OIL'S REQUEST FOR
AUGMENTATION OF RECORD AND
RECONSIDERATION**

Re: Docket No. 225

KENTUCKY OIL TECHNOLOGY, N.V.,

Counterclaimant,

v.

MEMRY CORPORATION and
SCHLUMBERGER TECHNOLOGY
CORPORATION,

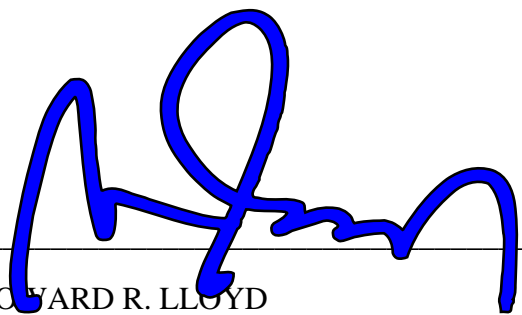
Counterdefendants.

On September 13, 2006, Kentucky Oil Technology, N.V. (KOT) filed a request that this court allow augmentation of the record and reconsider a portion of its September 6, 2006 discovery ruling. KOT concluded its request by stating "in the event that the Court wishes to consider Kentucky Oil's request, Kentucky Oil respectfully asks the Court to issue an Order

1 stating that it is considering such request and that the parties' time for objecting to the
2 September 6 Order will not begin to run until the Court rules on the request." The court issued
3 no such order. The terms of KOT's request effectively included an expiration date: the request
4 was withdrawn upon the filing of a formal objection with Judge Whyte on September 18. This
5 court concludes that the request for action from it was mooted by the filing of the objection with
6 Judge Whyte. KOT's request to this court to augment the record and reconsider its September 6
7 order is DENIED as moot.

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9 **IT IS SO ORDERED.**

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11 Dated: 11/16/06

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13 _____
14 HOWARD R. LLOYD
15 UNITED STATES MAGISTRATE JUDGE
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THIS SHALL CERTIFY THAT A COPY OF THIS ORDER WILL BE SENT TO:

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* Counsel are responsible for providing copies of this order to co-counsel.

Dated: 11/16/06

/s/ JMM

Chambers of Magistrate Judge Lloyd